

1 Philip H. Stillman, Esq. SBN# 152861  
2 STILLMAN & ASSOCIATES  
3 3015 North Bay Road, Suite B  
Miami Beach, Florida 33140  
Tel. and Fax: (888) 235-4279  
4 psstillman@stillmanassociates.com

5 Attorneys for defendant R.F. WEICHERT V, INC.

6 **UNITED STATES DISTRICT COURT FOR THE**  
7 **NORTHERN DISTRICT OF CALIFORNIA**

8 PETER STROJNIK,

9 Plaintiff,

10 vs.

11 R.F. WEICHERT V, INC. dba JABBERWOCK  
12 INN,

13 Defendant.

Case No. 5:20-cv-00354-VKD

**NOTICE OF MOTION AND MOTION  
TO DISMISS FIRST AMENDED  
COMPLAINT PURSUANT TO FED. R.  
CIV. P. 12(B)(1) AND (6)**

Date: May 19, 2020

Time: 10 a.m.

Courtroom: 2, 5<sup>th</sup> Fl.

14 Hon. Virginia K. DeMarchi

1 **TO PLAINTIFF AND HIS ATTORNEYS OF RECORD:**

2 PLEASE TAKE NOTICE THAT on May 19, 2020, or as soon thereafter as the  
3 matter may be heard in Courtroom 2 of the above-entitled court, R.F. WEICHERT V, INC.  
4 (“Defendant”) will and hereby does move the Court for an Order dismissing the Complaint  
5 for lack of standing and failure to state a claim, pursuant to Fed. R. Civ. P. 12(b)(1) and (6).

6 This motion is brought on the grounds that Peter Strojnik (“Plaintiff”) lacks sufficient  
7 Article III standing to bring the claims asserted in the complaint and fails to allege  
8 sufficient facts to support standing under the Unruh Act and Disabled Persons Act claims.  
9 Additionally, Plaintiff fails to state a claim upon which relief can be granted, and pleads  
10 punitive damages for a negligence cause of action, which Defendant requests to be stricken.

11 This motion is based on this Notice of Motion and Motion, the Memorandum of  
12 Points and Authorities filed herewith, the Declaration of Philip H. Stillman and exhibits  
13 thereto, the pleadings and papers on file herein, and upon such other matters as may be  
14 presented to the Court at the time of the hearing, if any.

15 WHEREFORE, defendant R.F. WEICHERT V, INC. respectfully requests that this  
16 Court dismiss the Complaint with prejudice and without leave to amend.

17 Respectfully Submitted,

18 STILLMAN & ASSOCIATES

19 

20 Dated: April 14, 2020

21 By: Philip H. Stillman, Esq.  
22 Attorneys for defendant R.F. WEICHERT V, INC.

23

24

25

26

27

28

## PROOF OF SERVICE

I, the undersigned, certify under penalty of perjury that on April 14, 2020 or as soon as possible thereafter, copies of the foregoing Motion to Dismiss, Memorandum of Points and Authorities, the Declaration of Philip Stillman and Proposed Order was served electronically by the Court's ECF notice to all persons/entities requesting special notice or otherwise entitled to the same and via email to Plaintiff's email address listed with this Court.

By: s/ Philip H. Stillman  
Attorneys for R.F. WEICHERT V, INC.